

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 55 (Sub-No. 767X)]

CSX Transportation, Inc.—Discontinuance of Service Exemption—in Perry County, Ky.

CSX Transportation, Inc. (CSXT), filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments and Discontinuances of Service to discontinue service over an approximately 3.3-mile rail line on CSXT's Northern Region, Louisville Division, EK Subdivision, between milepost 0WV 242.0 and milepost 0WV 245.3 in Hazard, Perry County, Ky. (the Line). The Line traverses United States Postal Service Zip Codes 41701 and 41722. There is one station on the Line, Sigmon, located at milepost 0VD 245 (FSAC 42845/OPSL 17202).¹

CSXT has certified that: (1) no local traffic has moved over the Line for at least two years; (2) because the Line is not a through route, no overhead traffic has operated, and, therefore, none needs to be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line is pending either with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the two-year period; and (4) the requirements at 49 C.F.R. § 1105.12 (newspaper publication) and 49 C.F.R. § 1152.50(d)(1) (notice to governmental agencies) have been met.

¹ CSXT states that the Sigmon station can be closed.

As a condition to this exemption, any employee adversely affected by the discontinuance of service shall be protected under Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. § 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) to subsidize continued rail service has been received, this exemption will be effective on January 17, 2017, unless stayed pending reconsideration.² Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA to subsidize continued rail service under 49 C.F.R. § 1152.27(c)(2)³ must be filed by December 23, 2016.⁴ Petitions to reopen must be filed by January 5, 2017, with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to CSXT's representative: Louis E. Gitomer, Law Offices of Louis E. Gitomer, LLC, 600 Baltimore Avenue, Suite 301, Towson, MD 21204.

² Although CSXT states in its verified notice that the proposed consummation date of this transaction is January 16, 2017, this transaction cannot be consummated until January 17, 2017 (50 days from its filing date). 49 C.F.R. § 1152.50(d)(2).

³ Each OFA must be accompanied by the filing fee, which is currently set at \$1,700. See 49 C.F.R. § 1002.2(f)(25).

⁴ Because this is a discontinue proceeding and not an abandonment, interim trail use/rail banking and public use conditions are not appropriate. Because there will be an environmental review during abandonment, this discontinuance does not require an environmental review.

If the verified notice contains false or misleading information, the exemption is void ab initio.

Board decisions and notices are available on our website at “WWW.STB.GOV.”

Decided: December 13, 2016.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.